



**[6450-01-P]**

**DEPARTMENT OF ENERGY**

**Office of Energy Efficiency and Renewable Energy**

**[Case No. DW-006]**

**Decision and Order Granting a Waiver to Miele, Inc. from the U.S. Department of Energy  
Residential Dishwasher Test Procedure**

**AGENCY:** Office of Energy Efficiency and Renewable Energy, Department of Energy.

**ACTION:** Decision and Order.

**SUMMARY:** The U.S. Department of Energy (DOE) gives notice of the decision and order (Case No. DW-006) that grants to Miele, Inc. (Miele) a waiver from the DOE dishwasher test procedure for certain basic models that run on a 208 volt electrical supply. Under today's decision and order, Miele shall be required to test and rate these dishwashers using an alternate test procedure that takes this supply voltage into account when measuring energy and water consumption.

**DATES:** This Decision and Order is effective **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**FOR FURTHER INFORMATION CONTACT:** Dr. Michael G. Raymond, U.S. Department of Energy, Building Technologies Program, Mail Stop EE-2J, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585-0121. Telephone: (202) 586-9611. E-mail: [Michael.Raymond@ee.doe.gov](mailto:Michael.Raymond@ee.doe.gov).

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**SUPPLEMENTARY INFORMATION:** In accordance with Title 10 of the Code of Federal Regulations (10 CFR 430.27(l)), DOE gives notice of the issuance of its decision and order as set forth below. The decision and order grants Miele a waiver from the applicable residential dishwasher test procedure in 10 CFR part 430, subpart B, appendix C for certain basic models of dishwashers with a 208 volt supply voltage, provided that Miele tests and rates such products using the alternate test procedure described in this notice.

Today's decision prohibits Miele from making representations concerning the energy efficiency of these products unless the product has been tested consistent with the provisions of the alternate test procedure set forth in the decision and order below, and the representations fairly disclose the test results. Distributors, retailers, and private labelers are held to the same standard when making representations regarding the energy efficiency of these products. 42 U.S.C. 6293(c).

Issued in Washington, DC, on December 20, 2011.

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Kathleen B. Hogan  
Deputy Assistant Secretary for Energy Efficiency  
Energy Efficiency and Renewable Energy

## Decision and Order

*In the Matter of:* Miele, Inc. (Case No. DW-006)

### I. *Background and Authority*

Title III, Part B of the Energy Policy and Conservation Act of 1975 (EPCA), Pub. L. 94-163 (42 U.S.C. 6291-6309, as codified) established the Energy Conservation Program for Consumer Products Other Than Automobiles, a program covering most major household appliances, which includes the residential dishwashers that are the focus of this notice.<sup>1</sup> Part B includes definitions, test procedures, labeling provisions, energy conservation standards, and the authority to require information and reports from manufacturers. Further, Part B authorizes the Secretary of Energy to prescribe test procedures that are reasonably designed to produce results which measure energy efficiency, energy use, or estimated operating costs, and that are not unduly burdensome to conduct. (42 U.S.C. 6293(b)(3)) The test procedure for residential dishwashers is contained in 10 CFR part 430, subpart B, appendix C.

DOE's regulations for covered products contain provisions allowing a person to seek a waiver for a particular basic model from the test procedure requirements for covered consumer products when 1) the petitioner's basic model for which the petition for waiver was submitted contains one or more design characteristics that prevent testing according to the prescribed test procedure, or 2) when prescribed test procedures may evaluate the basic model in a manner so unrepresentative of its true energy consumption characteristics as to provide materially

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<sup>1</sup> For editorial reasons, upon codification in the U.S. Code, Part B was re-designated Part A.

inaccurate comparative data. 10 CFR 430.27(a)(1). Petitioners must include in their petition any alternate test procedures known to the petitioner to evaluate the basic model in a manner representative of its energy consumption characteristics. 10 CFR 430.27(b)(1)(iii).

The Assistant Secretary for Energy Efficiency and Renewable Energy (the Assistant Secretary) may grant a waiver subject to conditions, including adherence to alternate test procedures. 10 CFR 430.27(l). Waivers remain in effect pursuant to the provisions of 10 CFR 430.27(m).

Any interested person who has submitted a petition for waiver may also file an application for interim waiver of the applicable test procedure requirements. 10 CFR 430.27(a)(2). The Assistant Secretary will grant an interim waiver request if it is determined that the applicant will experience economic hardship if the interim waiver is denied, if it appears likely that the petition for waiver will be granted, and/or the Assistant Secretary determines that it would be desirable for public policy reasons to grant immediate relief pending a determination on the petition for waiver. 10 CFR 430.27(g).

## II. *Miele's Petition for Waiver: Assertions and Determinations*

On July 19, 2011, Miele submitted the instant petition for waiver and application for interim waiver (petition) from the test procedure applicable to residential dishwashers set forth in 10 CFR Part 430, subpart B, appendix C. Miele requested a waiver to test the specified basic model of residential dishwasher that runs on an electrical supply voltage of 208 volts. The

existing test procedure under Title 10 of the Code of Federal Regulations 430.23(c) provides for testing at 115 and 240 volts only. The electrical supply voltage of 208 volts prevents testing these dishwashers according to the DOE test procedure. The only modification needed to the test procedure is to provide for testing with a 208 volt electrical supply. DOE received no comments on the Miele petition.

### III. *Consultations with Other Agencies*

DOE consulted with the Federal Trade Commission (FTC) staff concerning the Miele petition for waiver. The FTC staff did not have any objections to granting a waiver to Miele.

### IV. *Conclusion*

After careful consideration of the material that was submitted by Miele and consultation with the FTC staff, it is ordered that:

(1) The petition for waiver submitted by Miele, Inc. (Case No. DW-006) is hereby granted as set forth in the paragraphs below.

(2) Miele shall be required to test and rate its dishwasher model G7856-208V according to the existing DOE test procedure at 10 CFR 430, subpart B, appendix C, with the modification set forth below:

Under appendix C, add the following section 2.2.3:

2.2.3 *Dishwashers that operate with an electrical supply of 208 volts.* Maintain the electrical supply to the dishwasher at 208 volts  $\pm 2$  percent and within 1 percent of its nameplate frequency as specified by the manufacturer.

(3) Representations. Miele may make representations about the energy use of its dishwasher products for compliance, marketing, or other purposes only to the extent that such products have been tested in accordance with the provisions outlined above and such representations fairly disclose the results of such testing.

(4) This waiver shall remain in effect consistent with the provisions of 10 CFR 430.27(m).

(5) This waiver is issued on the condition that the statements, representations, and documentary materials provided by the petitioner are valid. DOE may revoke or modify this waiver at any time if it determines the factual basis underlying the petition for waiver is incorrect, or the results from the alternate test procedure are unrepresentative of the basic models' true energy consumption characteristics.

(6) This waiver applies only to the basic model set out in Miele's July 19, 2011 petition for waiver. Grant of this waiver does not release a petitioner from the certification requirements set forth at 10 CFR part 429.

Issued in Washington, DC, on December 20, 2011.

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Kathleen B. Hogan  
Deputy Assistant Secretary for Energy Efficiency  
Energy Efficiency and Renewable Energy

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